

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
Cormeko Keyonia Gates) CASE NO. 17-65218-PMB
)
)
)
DEBTOR.)

**CHAPTER 13 TRUSTEE'S
OBJECTION TO CONFIRMATION & MOTION TO DISMISS CASE
PURSUANT TO 11 U.S.C. SECTION 109(g)(1)**

COMES NOW Melissa J. Davey, Chapter 13 Trustee, and objects to confirmation of the plan and files this motion to dismiss under 11 U.S.C. Sections 1307(c), 109(g), 349(a), and 105(a), for cause, including the following reasons:

1. The Debtor has failed to maintain payments into this case as required by 11 U.S.C. Section 1326.

2. The Debtor filed a certificate indicating that Debtor obtained a briefing from an approved non-profit budget and credit counseling agency; however, the date on said certificate indicates that the credit counseling was received post-petition, in possible violation of 11 U.S.C. Section 109(h), thus the Debtor may not be eligible for relief under Title 11.

3. The Debtor has failed to provide the Trustee with a copy of the 2016 federal tax return or transcript of such return for the most recent tax year ending immediately before the commencement of the instant case and for which a federal income tax return was filed, in violation of 11 U.S.C. Section 521(e)(2)(A)(i).

4. The schedules provide that J & J Wesley Rentals has a secured claim, however, the Chapter 13 Plan fails to provide for said creditor, in violation of 11 U.S.C. Sections 1322(a)(2) or 1325(a)(5).

5. The Trustee requests proof that Debtor's direct post-petition rent payments remain current. 11 U.S.C. Section 1325(a)(6).

6. In accordance with General Order No. 18-2015 and the annexed Statement of Rights and Responsibilities, the Debtor's attorney should timely provide proof of Debtor's \$2,225.00 per month Social Security income to the Chapter 13 Trustee. 11 U.S.C. Sections 521(a)(1), 1325(a)(3), 1325(a)(6), 1325(b)(1)(B) and Bankruptcy Rule 1007.

7. After review of scheduled income and anticipated household expenses, Debtor's proposed budget may fail to provide sufficient funds for ordinary living expenses, in possible violation of 11 U.S.C. Section 1325(a)(6).

8. The Chapter 13 budget included with the schedules reflect a monthly disposable income of \$332.00; however, \$125.00 per month is proposed to be remitted to the plan, thereby indicating a lack of good faith in proposing the instant repayment plan, 11 U.S.C. Section 1325(a)(3).

9. All prior bankruptcy cases of the Debtor, or pending related bankruptcy cases, may not have been disclosed, case numbers 16-72655-PMB; 16-70592-PMB; 16-50784-PMB; thereby, indicating a lack of good faith in proposing the instant repayment Plan, possibly in violation of 11 U.S.C. Section 1325(a)(3) and 1325(a)(7).

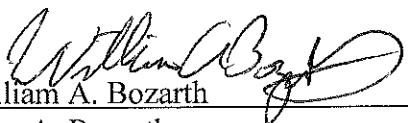
10. The above-styled Debtor received a Chapter 7 discharge on May 19, 2016, case number 16-50784-PMB filed January 14, 2016; thereby, indicating a lack of good faith in proposing a ten percent (10%) composition Plan, 11 U.S.C. Section 1325(a)(3).

11. The Plan should be amended to include a provision that, "Any federal tax refunds the Debtor is entitled to receive during the applicable commitment period shall be paid into the Debtor's Chapter 13 case. Further, the Debtor authorizes and instructs the Internal Revenue Service to send any refund for said years directly to the Debtor's Chapter 13 Trustee. Upon written request to the Chapter 13 Trustee, the Debtor may retain up to \$1,500.00 of a tax refund without a motion being filed." 11 U.S.C. Sections 1325(a)(3) and 1325(b)(1)(B).

12. The Debtor fails to identify the subsections of O.C.G.A. Section 44-13-100 upon which she relies for authority in exempting property, as reflected on Schedule C. The Trustee objects to the claimed exemptions.

13. Debtor has filed two (2) previous unsuccessful Chapter 13 cases, being case number 16-70592-PMB filed November 16, 2016 and dismissed prior to confirmation December 13, 2016 because the Debtor failed to timely pay the filing fees to the Clerk of Court and case number 16-72655-PMB filed December 20, 2016 and dismissed prior to confirmation March 6, 2016 pursuant to 11 U.S.C. Section 109(g). Based on the foregoing, the Chapter 13 Trustee respectfully moves the Court to dismiss the instant case with prejudice, thereby rendering the Debtor ineligible for relief under Title 11 for one hundred eighty (180) days, pursuant to 11 U.S.C. Sections 1325(a)(3), 1325(a)(7), 105(a), 109(g) and 349(a).

WHEREFORE, the Trustee moves the Honorable Court to inquire into the above objections at the separately scheduled and noticed confirmation hearing, deny Confirmation of the Debtor's Chapter 13 plan and dismiss the case pursuant to 11 U.S.C. Sections 105(a) and 109(g), thereby rendering the Debtor ineligible from re-filing another Chapter 13 case for one hundred eighty (180) days.


/s/ William A. Bozarth
William A. Bozarth
Attorney for Chapter 13 Trustee
GA Bar No. 940530

Melissa J. Davey, Chapter 13 Trustee
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CERTIFICATE OF SERVICE

This is to certify that I have this day served:

DEBTOR(S):
Cormeko Keyonia Gates
11092 Silver Aspen Ct.
Hampton, GA 30228

DEBTOR(S) ATTORNEY:
PRO SE

in the foregoing matter with a copy of this Objection to Confirmation & Motion to Dismiss by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

Tuesday, October 24, 2017

/s/ 
William A. Bozarth
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